

JUN 23 2004

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261

# FEE TRANSMITTAL for FY 2004

Effective 01/01/2003. Patent fees are subject to annual revision.

 Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

330

Complete If Known

Application Number

09/538,816

Filing Date

3/30/00

RECEIVED

First Named Inventor

Armstrong, et al.

JUN 29 2004

Examiner Name

DeMicco, Matthew R.

Group / Art Unit

2611

Technology Center 2600

Attorney Docket No.

533/054

## METHOD OF PAYMENT (check all that apply)

 Check  Credit Card  Money  Other  None  
Order
 Deposit Account

Deposit Account Number

20-0782

Deposit Account Name

Moser, Patterson &amp; Sheridan

The Director is authorized to: (Check all that apply)

 Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) during pendency of this application  
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## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity	Fee Code	Fee (\$)	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee			
1002	340	2002	170	Design filing fee			
1003	530	2003	265	Plant filing fee			
1004	770	2004	385	Reissue filing fee			
1005	160	2005	80	Provisional filing fee			

SUBTOTAL (1)

(\$ 0)

## 2. EXTRA CLAIM FEES

Total Claims	-20 **	=	0	X	18	=	0	Fee Paid
Independent Claims	-3 **	=	0	X	86	=	0	
Multiple Dependent				X		=	0	

Large Entity	Fee Code	Fee (\$)	Small Entity	Fee Code	Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20		
1201	86	2201	43	Independent claims in excess of 3		
1203	290	2203	145	Multiple dependent claim, if not paid		
1204	86	2204	43	** Reissue independent claims over original patent		
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent		

SUBTOTAL (2)

(\$ 0)

\*\* or number previously paid, if greater. For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity	Fee Code	Fee (\$)	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath			
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet			
1053	130	1053	130	Non-English specification			
1812	2,520	1812	2,520	For filing a request for reexamination			
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action			
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action			
1251	110	2251	55	Extension for reply within first month			
1252	420	2252	210	Extension for reply within second month			
1253	950	2253	475	Extension for reply within third month			
1254	1,480	2254	740	Extension for reply within fourth month			
1255	2,010	2255	1,005	Extension for reply within fifth month			
1401	330	2401	165	Notice of Appeal			330.00
1402	330	2402	165	Filing a brief in support of an appeal			
1403	290	2403	145	Request for oral hearing			
1451	1,510	2451	1,510	Petition to institute a public use proceeding			
1452	110	2452	55	Petition to revive – unavoidable			
1453	1,330	2453	665	Petition to revive – unintentional			
1501	1,330	2501	665	Utility issue fee (or reissue)			
1502	480	2502	240	Design issue fee			
1503	640	2503	320	Plant issue fee			
1460	130	1460	130	Petitions to the Commissioner			
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)			
1806	180	1806	180	Submission of Information Disclosure Stmt			
8021	40	8021	40	Recording each patent assignment per property (times number of properties)			
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))			
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))			
1801	770	2801	385	Request for Continued Examination (RCE)			
1802	900	1802	900	Request for expedited examination of a design application			

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 330)

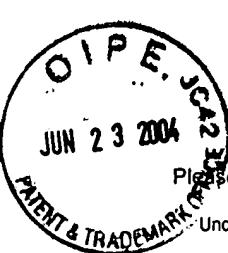
## SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	EAMON J. WALL, ESQ.	Registration No. Attorney/Agent)	39,414	Telephone	(732) 530-9404
Signature	<i>E. Wall</i>			Date	June 21, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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## TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

Application Number

09/538,816

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Filing Date

3/30/00

JUN 29 2004

First Named Inventor

Armstrong, et al.

Group Art Unit

2611

Technology Center 2600

Examiner Name

DeMicco, Matthew R.

Total Number of Pages in This Submission

Attorney Docket Number

533/054

## ENCLOSURES (check all that apply)

 Fee Transmittal Form Drawing(s) After Allowance Communication to Group Fee Attached Licensing-related Papers Appeal Communication to Board of Appeals and Interferences Amendment / Response Petition Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) After Final Petition to Convert to a Provisional Application Proprietary Information Affidavits/declaration(s) Power of Attorney, Revocation Change of Correspondence Address Status Letter Extension of Time Request Terminal Disclaimer Other Enclosure(s)  
(please identify below): Express Abandonment Request Request for Refund2 copies of Reply Brief  
postcard receipt Information Disclosure Statement CD, Number of CD(s) \_\_\_\_\_ Certified Copy of Priority Document(s)

Remarks

Please charge all fees due an owning to Deposit Account No. 20-0782, and please credit any excess fees to such deposit account.

 Response to Missing Parts/ Incomplete Application Response to Missing Parts under 37 CFR 1.52 or 1.53

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm  
or  
Individual name

EAMON J. WALL, ESQ., REG. NO. 39,414

Signature

Date

June 21, 2004

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Mail Stop-Appeal Brief-Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name

Alberta Gamble

Signature

Date

June 21, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

#14  
W. Lawson  
7/1/04

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JUN 29 2004

Technology Center 2600

In re Application of: **Armstrong et al.**

Docket No.: **533/054**

Serial No.: **09/538,816** : Filed: **March 30, 2000**

Group Art Unit: **2611** : Examiner: **DeMicco, Matthew R.**

**Title: SYSTEM ENABLING USER ACCESS TO SECONDARY CONTENT  
ASSOCIATED WITH A PRIMARY CONTENT STREAM**

REPLY BRIEF

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is filed under the provisions of 37 CFR 1.193(b) and M.P.E.P. §1208.02.

REPLY TO EXAMINER'S ANSWER

Applicants/Appellants, in accordance with 37 C.F.R. §1.193 and M.P.E.P. §1208.02 and in response to the Examiner's Answer (paper no. 13) dated April 21, 2004, hereby submit this Reply Brief to the Board of Patent Appeals and Interferences. Although Applicants/Appellants believe that no fee is due in conjunction with this response, the Commissioner is hereby authorized to charge any fees necessary to make this reply timely and acceptable, including extension of time fees under 37 C.F.R. §1.136, to Deposit Account No. 20-0782.

Applicants/Appellants submit the following remarks in response to the Examiner's Answer dated April 21, 2004, in further support of the arguments

presented in the Appellants' principal brief filed on January 16, 2004. Further, Applicants/Appellants believe Examiner's Answer repeatedly mischaracterizes the teachings of the cited references and the desirability of any combination of the same with references having non-compatible teachings. The following points of argument are presented in response to the Examiner's Answer.

- (1) On page 2 of the Examiner's Answer, the Examiner notes "[t]he statement of the status of the claims contained in the brief is correct. A typographical error, however, is present on Line 1, which states that, 'claims 1-16 were presented in the application as original filed on March 30, 2000.'" The Appellants thank the Examiner for identifying this typographical error and concur that "Claims 1-16" should correctly read "Claims 1-15."
- (2) On pages 4-7 of the Examiner's Answer, the Examiner states that video-on-demand (VOD) is often referred to as "Pay Per View." The Appellants respectfully disagree with such definition. Although a subscriber pays for a particular requested program for viewing, pay-per-view (PPV), as conventionally known in the art, enables a subscriber to order a program (e.g., a movie, sporting event, among other events) that is scheduled for broadcast at a particular time slot. Multiple predetermined time slots may also be used to provide PPV. These time slots are generally spaced at least twenty minutes apart, and within a predetermined time period (e.g., evenings). In other words, a person who wishes to view adult content would have to wait for the next time slot to occur, and such time slot is usually scheduled in the evenings.

By contrast, VOD allows a subscriber to view content (e.g., a movie) without regard to a scheduled time slot or any predetermined time period. In fact, there is no time slot associated with VOD, since the content (e.g., movie) is available for viewing at all times of a day. That is, subscribers of VOD services may watch adult content any time of the day, at will.

Near-video-on-demand (NVOD) may be considered an accelerated

version of pay-per-view. The Inoue reference discloses that the content associated with a particular program (e.g., movie) is broadcasted every five minutes, instead of every 20 or so minutes. Thus, NVOD is a subset of PPV, as opposed to video-on-demand.

It is critical to note that both PPV and NVOD provide content at a time determined by a programmer. In stark contrast, VOD contemplates that a user receives content at a time determined by the user (e.g., immediately). Neither Inoue nor Mankovitz teach or suggest a video-on-demand system, as claimed by the Appellants. Therefore the combination of the references fails to teach or suggest the Appellants invention as a whole.

Further, the Examiner notes that the secondary content taught by Mankovitz is the Internet-based web page itself that the user is operable to navigate. The PRI merely provides the television program with a link into the Internet and the vertical blanking interval (VBI) portion of a television signal carries this information. Regardless as what is being defined as secondary content, the Mankovitz reference fails to teach or suggest the Appellants claimed feature of "halting the providing of said primary VOD stream to said information consumer." Rather, Mankovitz discloses that "[b]y repeatedly pressing a button on the viewer input device, the viewer can toggle back and forth between the TV mode and the Internet mode.

The Appellants disagree that toggling between TV mode and the Internet mode is the same as "halting the providing of said primary VOD stream." Since Mankovitz discloses that the video information is television programs, by definition, such television programs are broadcast, and can not be halted. In fact, since the data is delivered via the VBI, the television signal must be continuously broadcast. Rather, the Appellants invention halts the primary VOD stream from the source (e.g., the head-end of the provider equipment). In other words, Mankovitz continuously broadcasts the television programming, and even though a viewer has toggled (switched) to viewing a web page, the viewer's receiver is still receiving the broadcast television program. Thus, the Appellants

invention is different from Mankovitz, since the Appellants invention claims "halting the providing of said primary VOD stream to said information consumer."

Moreover, the Inoue reference teaches that "during a pause, the video program may be received and displayed, or a pause graphics screen may be generated by the microcomputer and displayed." (see Inoue, col. 6, lines 28-32).

Notwithstanding, initiating a pause as taught by Inoue does not teach, necessitate, or suggest "halting the providing of said primary VOD stream to said information consumer." Rather, Inoue specifically discloses that even though a pause button is pressed by a user, the video program may still be received and displayed. Nothing in the Inoue or Mankovitz references teach or suggest that the primary video stream from the source is halted. Therefore, the appellants submit that the appealed claims fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder.

(3) On pages 7-8 of the Examiner's Answer, the Examiner states that "a web browser, such as the one in area 46, may receive and execute an applet from a web page on the internet." Further, "as shown in Figure 2, a television video screen displays a video frame, while a web browser area (46) displays the secondary content."

In response, claim 8 depends from claim 1 and recites additional features thereof. The Board's attention is directed to the fact that the primary VOD content stream is halted to the information consumer, when the secondary content is provided to the information consumer. By contrast, Mankovitz sends both the video information and web page information simultaneously.

Specifically, as the Examiner points out Mankovitz, FIG. 2 discloses a video portion 42 being displayed simultaneously with the web browser information 46. "In the Internet mode, the video portion of the television program last viewed in the TV mode is displayed in area 42. ... A message is displayed at the top of an area 46 to prompt the viewer to select from a number of website

names displayed in area 46 by moving a curser 48 with arrow keys on the viewer input device." (see Mankovitz, page 6, lines 10-17, and FIG. 2). Thus, the Mankovitz reference fails to teach or suggest "halting the providing of the primary VOD content stream to said information consumer; and providing a secondary content to said information consumer."

Moreover, the software application of Mankovitz does not read on the Appellants' claimed applet. The Examiner states that "it is inherent that the screen of FIG. 2, which is generated by a computing device, is controlled by a software application." However, Appellants point out that it is not inherent that the software applications of Mankovitz are applets originating from the provider equipment. That is, nowhere in Mankovitz is there any teaching or suggestion that the software application is "portable between operating systems," i.e., the secondary content is inherently derived from applets. The Appellants have defined their secondary content as originating from applets. The applets comprise three elements: a video layer, a control layer, and a graphics layer.

Further, Mankovitz is silent with respect to how the graphics layer may be used for selectively emphasizing or deemphasizing portions of the video layer. The Appellant's invention sends the applet, which includes a video layer graphics layer, and control layer from the provider equipment, where the control layer enables the graphics layer to be used for such emphasizing/deemphasizing of the video layer in response to user interaction.

The combined references do not teach an applet, as defined by the Appellant's invention. Rather, the Examiner is merely using conjecture with respect to the capabilities of the software disclosed in Mankovitz to form an obviousness rejection. Therefore, the Appellants submit that the appealed claim 8 fully satisfies the requirements under 35 U.S.C §103 and is patentable thereunder.

CONCLUSION

For the reasons advanced above, Appellants state that the rejection of claims 1-15 as being obvious under 35 U.S.C. § 103 is improper. Reversal of the rejection in this appeal is respectfully requested.

If necessary, please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 20-0782, and please credit any excess fees to the above referenced deposit account.

Respectfully submitted,

6/21/04

*EJW*

\_\_\_\_\_  
Eamon J. Wall, ESQ.  
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